

Department of Law and Public Safety
New Jersey Racing Commission

Special Adoption of Emergency Rules: Title 13, Chapter 74D

Issuance of Sports Wagering License to Racetrack Permit Holder

Special Adopted New Rules: N.J.A.C. 13:74D-1.1, 1.2, 1.3, 2.1, 3.1, 3.2 and 3.3

Special New Rule Adopted: June 13, 2018 by the New Jersey Racing Commission;
Frank Zanzuccki, Executive Director

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Take notice that the New Jersey Racing Commission has adopted new rules at N.J.A.C. 13:74D-1.1, 1.2, 1.3, 2.1, 3.1, 3.2 and 3.3 to implement new statutory requirements enacted in P.L. 2018, c. 33 which authorizes the issuance of a sports wagering license to a racetrack permit holder. The rules address definitions; applicability, including the incorporation of the rules of the Division of Gaming Enforcement by reference; application for a transactional waiver; application for and grant of an initial sports wagering license to a racetrack permit holder; operation of a sports pool at a racetrack; operation of an online sports pool by a racetrack permit holder; and delegation of authority to the Executive Director.

These specially adopted new rules will remain in effect until March 11, 2019 or until rules are proposed for public comment and readopted through standard rulemaking procedures, whichever is earlier.

Full text of the special adoption follows:

Chapter 74D

Issuance of Sports Wagering License to Racetrack Permit Holder

Subchapter 1 General Provisions

13:74D-1.1 Definitions

The words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Act" means the Sports Wagering Act, P.L. 2018, c. 33 (C.).

"Division" means the Division of Gaming Enforcement established pursuant to section 55 of P.L. 1977, c. 110 (C. 5:12-55).

"Executive Director" means the Executive Director of the Racing Commission or his or her designee.

"Former racetrack" means any former racetrack where a horse race meeting was conducted within 15 years prior to the effective date of P.L. 2014, c. 62 (C. 5:12A-7 et seq.), excluding premises other than the land contained within the racecourse oval.

"Online sports pool" means a sports wagering operation in which wagers on sports events are made through computers or mobile or interactive devices and accepted at a sports wagering lounge through an online gaming system which is operating pursuant to a sports wagering permit issued by the division or racing commission pursuant to P.L. 2018, c. 33 (C.).

"Operator" means a casino or a racetrack which has elected to operate a sports pool, either independently or jointly, and any entity with whom a casino or racetrack licensed to operate a sports pool contracts to operate a sports pool or online sports pool, including an Internet sports pool operator, on its behalf.

"Racetrack" means the physical facility and the land, as of the effective date of P.L. 2018, c. 33 (C.) where a permit holder conducts a horse race meeting with wagering under a license issued by the racing commission pursuant to P.L. 1940, c. 17 (C. 5:5-22 et seq.), and includes any former racetrack.

"Racing Commission" means the New Jersey Racing Commission established by section 1 of P.L. 1940, c. 17 (C. 5:5-22).

"Sports pool" means the business of accepting wagers on any sports event by any system or method of wagering, including but not limited to single-game bets, teaser bets, parlays, over-under, moneyline, pools, exchange wagering, in-game wagering, in-play bets, proposition bets, and straight bets.

13:74D-1.2 Applicability; Incorporation of the Rules of the Division by Reference

(a) A racetrack permit holder may file an application for a license authorizing it to operate a sports pool in accordance with the provisions of the Act, this chapter and the rules promulgated by the Division. The Racing Commission hereby incorporates the rules of the Division applicable to sports wagering by reference, as amended and supplemented.

(b) A racetrack permit holder which holds a sports wagering license and a casino which holds a sports wagering license may enter into an agreement to jointly operate a sports pool at a racetrack, in accordance with the provisions of the Act, this chapter and the rules promulgated by the Division provided that the terms of the agreement are approved by the Racing Commission and Division.

(c) A racetrack permit holder that holds a sports wagering license may conduct an online sports pool or may authorize an internet sports pool operator licensed as a casino service industry enterprise pursuant to section 92 of P.L. 1977, c. 110 (C. 5:12-92), or an applicant for such license, to operate an online sports pool on its behalf provided the terms of the agreement are approved by the Racing Commission and the Division.

(d) The racetrack permit holder's operation of the sports pool or online sports pool shall comply with the Act and the rules promulgated by the Division.

13:74D-1.3 Application for Transactional Waiver Authorizing Issuance of Sports Wagering License and Immediate Commencement of Sports Wagering

(a) A racetrack permit holder may file a letter with the Racing Commission applying for a transactional waiver to immediately commence sports wagering. Upon a showing that the applicant currently holds a permit to conduct live racing in the State of New Jersey, the Racing Commission shall immediately issue a sports wagering license to the permit holder allowing for the immediate commencement of sports wagering subject to the condition that the permit holder comply with the Act, this chapter and the rules of the Division within 270 days from the effective date of the Act. In the event the permit holder fails to comply with the Act, this chapter and the rules of the Division within such time period, the non-complying permit holder will not thereafter be eligible to conduct sports wagering until such compliance is achieved and, if applicable, the license is renewed by application to the Division.

(b) The letter applying for a transactional waiver shall be filed with the Executive Director who shall have the authority to issue the sports wagering license upon finding that the waiver applicant currently holds a permit to conduct live racing in the State of New Jersey and that the permit holder is in good standing with the Racing Commission. If issued pursuant to the grant of an application for a transactional waiver, the sports wagering license shall be valid for 365 days. The permit holder shall file an application for the grant of an initial license with the Racing Commission pursuant to N.J.A.C. 13:74D-2.1 within 60 days of the filing of the letter applying for the transactional waiver.

(c) The Executive Director shall have the authority to determine whether the permit holder has complied with this chapter within 270 days of the effective date of the Act. The Division shall have the authority to determine whether the permit holder has complied with the Act and the rules of the Division within 270 days of the effective date of the Act. In the event that either the Executive Director or the Division determines that the permit holder is not in compliance, the Executive Director shall summarily order the non-complying permit holder to immediately cease sports wagering until such compliance is achieved.

(d) If the Executive Director and the Division certify that the permit holder has complied with the Act, this chapter and the rules of the Division pursuant to (c) above, the initial license shall remain valid for 365 days.

Subchapter 2 Application for Initial Sports Wagering License

13:74D-2.1 Grant of Initial Sports Wagering License to Racetrack Permit Holder

(a) The racetrack permit holder shall make an application for an initial sports wagering license on a form prescribed by the Commission. The application shall be accompanied by a non-refundable filing fee of \$100,000.

(b) An application for an initial sports wagering license shall not be considered complete unless:

1. The permit holder demonstrates, and the Commission's investigation into the application confirms, that the requirements of the Act and the Racing Commission's rules have been satisfied;
2. The permit holder has completely answered each question within the application and has fully complied with all of the Executive Director's requests for additional information;
3. The permit holder has demonstrated that it has given a one-time right of first refusal offer of employment at the sports pool to any person employed by the permit holder on the effective date of the Act in the admissions department or parimutuel clerk department of the racetrack.
4. The application is accompanied by a certification signed by a high managerial agent attesting that the disclosures within the application and within its attachments are true, accurate, and complete.

(c) Following the Executive Director's determination that the application for an initial sports wagering license is complete, the Racing Commission shall consider the application at a public meeting to make a final determination on the application.

1. The Racing Commission shall not grant an initial sports wagering license unless the permit holder shall have demonstrated its financial stability, integrity and responsibility and its good character, honesty and integrity by clear and convincing evidence.
2. In demonstrating its financial stability, integrity and responsibility, the permit holder shall submit to the Racing Commission information, documentation and assurances concerning its financial background and resources. The permit holder shall document to the Racing Commission, by clear and convincing evidence, that it is in compliance with the Division's

rules including, but not limited to, the rules applicable to the amount of cash reserves that must be maintained by operators of sports pools.

3. The permit holder shall demonstrate that it is in good standing with the Racing Commission and has complied with all statutes, rules and orders of the Racing Commission.

(d) The Racing Commission may refuse to issue a license if it shall find that the permit holder has failed to demonstrate its suitability for an initial sports wagering license by clear and convincing evidence.

1. If the permit holder obtained a sports wagering license pursuant to a transactional waiver in accordance with N.J.A.C. 13:74D-1.3, the permit holder shall be granted up to 365 days from the date the sports wagering license was issued to amend its application, correct any deficiencies and demonstrate its suitability for licensure. If the permit holder fails to demonstrate its suitability for licensure, the sports wagering license shall expire.

(e) If it approves the application for the grant of an initial sports wagering license, the Racing Commission shall issue a final determination and order granting the license with such conditions or terms the Racing Commission deems appropriate. In imposing such conditions or terms, the Racing Commission shall order that the permit holder comply with the Division's rules applicable to sports pools and online sports pools including, but not limited to, those rules applicable to persons or entities that must be licensed or registered with the Casino Control Commission or Division.

Subchapter 3 Operation of Sports Pool at a Racetrack or Online Sports Pool by Racetrack

13:74D-3.1 Operation of Sports Pool at a Racetrack

A sports pool at a racetrack shall be operated in full compliance with the rules to the Division which, as provided in N.J.A.C. 13:74D-1.2(a), are incorporated by reference, as amended and supplemented.

13:74D-3.2 Operation of Online Sports Pool by Racetrack Permit Holder

All applications to operate an online sports pool by a racetrack permit holder that has been granted a sports wagering license shall be filed with the Division in accordance with the requirements of its rules which, as provided in

N.J.A.C. 13:74D-1.2(a) are incorporated by reference, as amended and supplemented. Any online sports pool shall be operated in full compliance with the rules of the Division which are incorporated by reference, as amended and supplemented.

13:74D-3.3 Delegation of Authority to Executive Director

(a) In accordance with section 4(b) of the Act and for the purpose of ensuring the expeditious and effective implementation of sports wagering at racetracks, the Racing Commission hereby delegates to the Executive Director the authority to summarily adopt, amend or repeal emergency rules in accordance with the requirements of the Act during the 90-day period following the effective date of the Act.

(b) The Racing Commission delegates to the Executive Director the authority to issue orders and conditions applicable to sports wagering at racetracks during the 270 days following the effective date of the Act.

(c) The Racing Commission delegates to the Executive Director the authority to consult with the Division in accordance with the requirements of the Act or the Division's rules during the 270 days following the effective date of the Act.

(d) The Racing Commission delegates to the Executive Director the authority to approve the terms of agreements in accordance with the requirements of the Act or the Division's rules during the 270 days following the effective date of the Act.